UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/50/504
4 October 1995

ORIGINAL: ENGLISH

Fiftieth session
Agenda item 18

# IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

## Question of Western Sahara

## Report of the Secretary-General

1. On 9 December 1994, the General Assembly adopted, without a vote, resolution 49/44, on the question of Western Sahara. The present report, which covers the period from 18 September 1994 to 30 September 1995, is submitted in pursuance of paragraph 8 of that resolution.

2. The Secretary-General, in close cooperation with the current Chairman of the Organization of African Unity (OAU), has continued to exercise his good offices with the parties concerned.

3. On 5 November 1994, the Secretary-General submitted a report 1/ to the Security Council in which he provided an account of the further efforts which he and his Deputy Special Representative, Mr. Erik Jensen (Malaysia), who has since been confirmed as his Acting Special Representative, had made during the preceding months in order to resolve the issues still standing in the way of the implementation of the Settlement Plan for Western Sahara. 2/

4. In his report, the Secretary-General described the process of identifying potential voters since its start on 28 August 1994, as well as the logistic and other difficulties experienced by the United Nations Mission for the Referendum in Western Sahara (MINURSO) in trying to accelerate its pace. On 25 October, the deadline set for the submission of applications, MINURSO received a flood of completed forms, which exceeded the number previously submitted. By then, only about 50,000 (about 21 per cent of the total) had been computerized and analysed. The Secretary-General recalled his earlier intention to recommend to the Security Council that the transitional period should start on 1 October 1994 and that the referendum should take place on 14 February 1995. 3/ However, it

was clear that many months would be required to make sufficient progress in the identification process to be close to determining a date for the referendum. The Secretary-General informed the Council that he would report further on the organization and timing of the referendum after the consultations he intended to hold during his visit to the area in November.

5. In a statement by its President on 15 November, 4/ the Security Council welcomed the Secretary-General's decision to visit the region and expressed the hope that, on that occasion, he would be able to report significant progress towards implementing the Settlement Plan and holding the referendum.

6. In his report dated 14 December, 5/ the Secretary-General informed the Security Council about his consultations held during his visit to the mission area from 25 to 29 November. He was accompanied throughout the visit by his Acting Special Representative. At Algiers, he was received by the State President, Mr. Liamine Zeroual. He also held meetings with Mr. Abdelkader Bensalah, President of the National Transition Council; Mr. Mokdad Sifi, Head of Government; Mr. Mohamed Salah Dembri, Minister for Foreign Affairs; Mr. Ramtane Lamamra, Permanent Representative of Algeria to the United Nations; and other senior officials of the Government of Algeria.

7. At all those meetings, the Secretary-General stressed the urgency of reaching an early settlement and sought Algeria's continued cooperation. The authorities reassured him of their firm support for the activities of the United Nations in Western Sahara and reaffirmed their preparedness to provide all necessary assistance in his efforts. They stressed, in particular, the need for the parties to adhere strictly to the provisions of the Settlement Plan, which they considered essential for the credibility of the referendum.

8. At Smara refugee camp near Tindouf, which he visited on 27 November, the Secretary-General met with Mr. Mohamed Abdelaziz, Secretary-General of the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO); Mr. Bachir Mustafa Sayed, Deputy Secretary-General of the Frente POLISARIO and its Coordinator with MINURSO; Mr. Bukhari Ahmed, representative of the Frente POLISARIO in New York; and other senior POLISARIO officials. Issues discussed included the process leading to the referendum; the Security Council's position on the issue; increasing the number of identification centres and personnel; various other aspects of the Mission's work; and the cooperation of both parties with the Acting Special Representative. The POLISARIO leaders expressed concern about certain developments since the beginning of the identification and registration process that they viewed as impediments to the smooth implementation of the Settlement Plan and the conduct of a free, fair and impartial referendum. They indicated that, while they continued to believe that direct dialogue would be useful, they would not make it a prerequisite for the continuation of the peace process in conformity with the Plan.

9. Addressing the main concern of the Frente POLISARIO - the large number of application forms submitted at the last minute - the Secretary-General pointed out that the Identification Commission was an independent body whose members, he was confident, would carry out their mandate with impartiality, fairness and integrity. He urged the Frente POLISARIO leaders to continue to cooperate with the Acting Special Representative and MINURSO so as to facilitate rapid progress

in the implementation of the Plan. He made it clear, however, that ultimately the continued involvement of the United Nations would depend on the demonstrated political will of the parties.

10. At Rabat, where he arrived after a visit to MINURSO headquarters at Laayoune, the Secretary-General was received by His Majesty King Hassan II of Morocco. He also held meetings with Mr. Abdelatif Filali, Prime Minister and Minister for Foreign Affairs and Cooperation; Mr. Driss Basri, Minister of the Interior and Information; Mr. Ahmed Snoussi, Permanent Representative of Morocco to the United Nations; and other senior officials of the Government of Morocco. A wide range of issues relating to the implementation of the Settlement Plan were discussed. These included the referendum; progress achieved so far in identification and registration, and measures required to accelerate the pace of the process; the cooperation of both parties with MINURSO and the Acting Special Representative; and the position and expectations of the Security Council regarding the process leading to the holding of the referendum.

11. The Secretary-General was reassured that Morocco remained fully committed to the Settlement Plan and would continue to provide all assistance required for his efforts to implement it. The Moroccan authorities further pledged continued support for the activities of MINURSO and the efforts of his Acting Special Representative.

12. The Security Council was further informed that the four identification teams working at Laayoune and Tindouf (two at each centre) had achieved a weekly output of 1,000 potential voters interviewed and identified. In order to complete the work within a reasonable time-frame, an estimated 25 teams working simultaneously would be required. Consultations had started with the parties regarding the location, equipping and opening of additional centres. The preliminary cost estimates for the further expansion of the Identification Commission were contained in an addendum to the 14 December report. 6/

13. The Secretary-General concluded his report with the hope that, by 31 March 1995, progress achieved in the identification process would have reached a level that would enable him to recommend 1 June 1995 as the date (D-day) for the start of the transitional period, with a view to holding the referendum in October 1995.

14. On 13 January, the Security Council adopted resolution 973 (1995) in which the Council approved the expansion of MINURSO as proposed in the Secretary-General's report of 14 December. It also requested the Secretary-General to report by 31 March on arrangements with regard to the logistic, personnel and other resources required for the deployment of MINURSO at full strength and on his final plan for implementing all elements of the Settlement Plan. The mandate of MINURSO was extended until 31 May 1995, with the possibility of a further extension on the basis of a further report by the Secretary-General at that time.

15. In pursuance of that resolution, the Secretary-General submitted a report to the Council on 30 March. 7/ The Council was informed that seven identification centres were operating in the Territory and the Tindouf area, and that arrangements had been completed to establish an eighth centre (four on each

side). The Government of Spain had forwarded important archival documents to the Acting Special Representative, at his request. Those documents had been classified by MINURSO and were proving of considerable value as aids to identification, especially for doubtful cases. The attention of the Council was drawn to the complexity of the identification of potential voters. As had been agreed, it could only take place when two tribal leaders (sheikhs), one from each side, were present to testify. The representatives of the two parties and an observer of OAU were also expected to attend. Problems arose when one of the parties had difficulties in making its sheikh available on time. Moreover, both sides' earlier insistence on strict reciprocity meant that whenever, for whatever reason, identification could not take place at a centre on one side, work was automatically suspended at a centre on the other.

16. The Secretary-General recalled that, from the start, the single greatest obstacle to identification had been the issue of tribal leaders. The Settlement Plan gave tribal leaders the responsibility for identifying applicants as being the persons they claimed to be and as belonging to a particular tribal group (subfraction); the sheikhs were also to provide oral testimony relevant to the eligibility criteria. Most sheikhs, elected as they were in 1973, were already of mature years at that time and many had since died or become incapacitated. As a result, one third of the tribal subfractions were without a recognized tribal leader on at least one side.

17. In the summer of 1994, the two parties agreed to the proposal of the Acting Special Representative that the process should start with those subfractions where there was a surviving and competent sheikh on each side. With regard to the other cases, the views of the two parties diverged markedly. The Frente POLISARIO argued that to avoid any subsequent manipulation of the selection of sheikhs, only those elected in the Territory in 1973, or their eldest sons, should be eligible to testify. Morocco opposed the view that the 1973 election of sheikhs under Spanish rule was the only one ever held in the Territory, that sheikhs were traditionally coopted and not elected, that not all Saharan sheikhs were necessarily in the Territory in 1973 and that those elected in 1973 might subsequently have been replaced by others, since their term of office was to last only five years.

18. A measure of convergence then began to emerge. On 10 February, the Acting Special Representative submitted a detailed proposal to the two parties: a surviving sheikh from the 1973 election was to be preferred; then his eldest surviving son; then a candidate from the election of 1973, normally by descending number of votes received; and failing that, the party would put forward three names from which the Chairman of the Identification Commission would select one, after consultation with the other party. The three names were to be of persons from the subfraction concerned, of recognized standing in their community, of appropriate age, without any official position and themselves included in the census lists of 1974. Attached to the proposal was a list of all 88 tribal subfractions included in the 1974 census and such information as was available to MINURSO concerning the sheikhs, sons of sheikhs and non-elected candidates from the 1973 election; in the 29 cases where no such person was known, a blank space was left for the three names to be provided by the parties.

19. In their written response dated 13 February, the Moroccan authorities maintained that there had been no prior commitment on their part to certain of the limitations, but they took note of further clarification offered in writing by the Acting Special Representative on 18 February. On 23 February, the Moroccan authorities provided detailed statistical information concerning the whereabouts of all members of the subfractions listed as residents in the Territory. They also undertook to make available names of candidates to replace sheikhs as required. On 26 February, the Frente POLISARIO also submitted a written response, reiterating certain concerns and returning the list of subfractions completed with the names of persons to be considered as replacements in the absence of sheikhs.

20. Recalling the other aspects of the Settlement Plan, the Secretary-General reported that the Commander of the Royal Moroccan Armed Forces in the southern zone, Major-General Abdelaziz Bennani, had assured the Acting Special Representative of Morocco's preparedness to implement fully the provisions of the Plan relating to the reduction of Moroccan troops in the Territory, once D-Day and the start of the transitional period had been determined. Preliminary consultations on the confinement of POLISARIO troops had been initiated. Mr. Emmanuel Roucounas (Greece), a prominent international jurist, had been appointed as the independent jurist, to ensure the release of all Saharan political prisoners and detainees. The International Committee of the Red Cross (ICRC) had stated that it was ready to start working on the release of prisoners of war as soon as the parties were ready to do so. With respect to the draft code of conduct, which had been submitted to the parties on 13 December 1994, the Secretariat received detailed comments and proposals from the Frente POLISARIO on 31 January and from the Government of Morocco on 15 February. The replies reflected major differences between the two sides, which the Secretariat was attempting to reconcile. Regarding the repatriation of refugees, other Western Saharans and members of the Frente POLISARIO entitled to vote, a technical team of the Office of the United Nations High Commissioner for Refugees (UNHCR) visited the mission area from 2 to 15 February in order to review the plans for the operation.

21. The Secretary-General indicated in paragraph 51 of his report that progress achieved thus far did not enable him to recommend 1 June 1995 as the date (D-Day) for the start of the transitional period. If, however, the parties made it possible to raise the rate of identification to 25,000 per month, and if they cooperated in resolving expeditiously the remaining issues in the Settlement Plan, it could be envisaged that the transitional period could begin in August 1995 and the referendum be held in January 1996.

22. In pursuance of resolution 973 (1995) of the Security Council and a statement by its President dated 12 April, 8/ the Secretary-General submitted a report to the Council on 19 May. 9/ He recalled that despite the increased operational capabilities, the rate of identification had been uneven. The operation had been interrupted periodically by difficulties relating to the timely availability of sheikhs and party representatives, and to weather conditions and logistics. Although the Acting Special Representative had proposed to the parties a formula for dealing with cases where there was no sheikh available, difficulties had arisen in the interpretation and

implementation of certain points of the agreement. At the end of April, identification had therefore been taking place at only three centres.

23. In late April, the Acting Special Representative held a series of consultations with the parties to address their concerns. Both sides agreed to his proposals and, as a result, the identification operation was resumed at all eight centres on 2 May. During the period since the Secretary-General's previous report, 7/ the parties had not entirely abandoned their insistence on reciprocity in the operation of the centres on both sides, or their attachment to a maximum of 150 persons to be identified daily at any given centre. After additional resources had been made available since the adoption of Security Council resolution 973 (1995), MINURSO had been able on occasions to identify 800 to 900 persons in one day, which confirmed that a rate of 1,000 a day was technically feasible.

24. While noting the difficulties encountered as a result of the complexity and sensitivity of the identification process, the Secretary-General pointed out that during the 10 months since the start of the identification, barriers that had seemed insurmountable had been overcome and much had been achieved that now seemed irreversible. Reiterating that the process could not be brought to a successful conclusion without the full cooperation of the parties, he called upon them once again to work with MINURSO in a spirit of genuine cooperation. He asked the Security Council for an extension of the mandate of MINURSO for a period of four months and set a number of benchmarks for the coming months that would enable the Council to assess the parties' willingness to press ahead with the implementation of the Plan. By the end of September, he would assess all the progress achieved and, on that basis, would make recommendations to the Council for the fulfilment of the United Nations mandate in Western Sahara.

25. In its resolution 995 (1995) of 26 May, the Security Council decided to send a mission of the Council to the region and to extend the mandate of MINURSO until 30 June, pending the findings and recommendations of its mission. The six-member Council delegation visited Rabat, Algiers, Tindouf, Laayoune and Nouakchott from 3 to 9 June. Its objective was to impress upon the parties the necessity of fully cooperating with MINURSO in the implementation of all aspects of the Settlement Plan, to assess progress and identify problems in the identification process, and to identify problems in other areas relevant to the fulfilment of the Plan.

26. On 21 June, the Security Council received the report of its mission. 10/ On 23 June, the Frente POLISARIO informed the President of the Security Council that it was suspending its participation in the identification and withdrawing its observers. 11/ This was in protest against the sentencing by a Moroccan military tribunal on 21 June of eight Saharans to prison terms of 15 to 20 years for having participated in a demonstration in Laayoune on 11 May, and the announcement by Morocco to the Council mission of its intention to present for identification 100,000 applicants residing outside the Territory. In response, Prime Minister Filali addressed a letter to the President of the Security Council on 26 June, 12/ in which he stated that Morocco could not accept an indefinite postponement of the referendum and called upon the Council to take all necessary steps to ensure the resumption of the process with a view to holding the referendum on schedule.

27. Having considered the report of its mission, 10/ including recommendations for moving forward on the identification process and other aspects of the Settlement Plan, the Security Council adopted resolution 1002 (1995) on 30 June. The mandate of MINURSO was extended until 30 September 1995 as recommended by the Secretary-General in his report of 19 May, 9/ and the Council requested the Secretary-General to make every effort to persuade the parties to resume their participation in the implementation of the Plan.

28. The Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples considered the question of Western Sahara on 10 and 14 July. During its consideration of the question, the Special Committee had before it a working paper containing information on developments concerning the Territory. 13/ The Special Committee decided to transmit the relevant documentation to the General Assembly.

29. On 12 July, Frente POLISARIO Secretary-General Abdelaziz addressed a letter 14/ to the President of the Security Council and to the Secretary-General in which he confirmed the Frente POLISARIO's agreement to resume its participation, after a Moroccan royal edict of 9 July had reduced the 21 June prison sentence to one year. In the same letter, he reiterated the view of the Frente POLISARIO that the 1974 Spanish census constituted the only basis recognized in the Settlement Plan as accepted by the two parties and endorsed by the United Nations and deemed unacceptable what he termed the participation of a substitute population, sought by the occupying Power, whose most recent manoeuvre was to attempt to include 100,000 of its nationals in the voters list. The identification operation recommenced in late July, after the details concerning its resumption had been clarified and practical measures taken to reopen the centres.

30. In pursuance of Security Council resolution 1002 (1995), the Secretary-General submitted a report to the Council on 8 September. 15/ He indicated that a total of 53,000 applicants had been identified since the process began one year before. Since his previous report, 9/ the Moroccan authorities had reiterated their wish to proceed as expeditiously as possible in completing the process. They had agreed to conduct preliminary vetting of the 100,000 applicants residing outside the Territory, as called for by the Council mission in its report. 10/ In a letter dated 23 August to the Secretary-General, Prime Minister Filali also reiterated Morocco's conviction that all applicants should be treated equally, irrespective of their place of residence and the criterion under which they applied.

31. The Council was informed that the Frente POLISARIO had decided not to participate in the identification of the 100,000 applicants residing outside the Territory, many of whom were members of the "Tribus del Norte", "Costeras y del Sur" and "Chorfa" groupings. From among these, the Frente POLISARIO rejected three groups as in no sense "belonging to the Territory". With respect to other groups, while not contesting the right of their members who were included in the 1974 census to be identified, the Frente POLISARIO agreed to participate in their identification only on the assumption that their number would be modest and the individuals would be identified by one sheikh from each side.

32. The Secretary-General noted that, were the parties to cooperate fully, identification in three of the four centres in the Territory (except Laayoune) and all four refugee camps could be completed in five weeks. There would then remain, in addition to Laayoune, those individuals belonging to an assortment of tribal groups widely dispersed and thinly represented in any one place in the Territory or in the camps. MINURSO had an obligation to consider all applications that had been correctly submitted. Bringing a person to be identified did not prejudge the decision.

33. The Secretary-General also noted that, technically, there would be no obstacle to organizing identification sessions in various places within or outside the Territory, wherever the bulk of the applicants resided. The practice could continue of calling on two sheikhs from the tribal subgroup concerned, but these would not invariably be drawn one from each side, as had been the practice hitherto. Were identification to take place without the participation of sheikhs from the Frente POLISARIO side, it would be necessary, for the process to have credibility, to insist on the submission of documentary evidence to establish that the individual was indeed a child of a Saharan father and some supporting evidence as to the father's birth in the Territory. The Frente POLISARIO would, of course, be invited to observe the proceedings and to submit its observations in accordance with the agreed procedures. OAU should also be represented and the presence of its observers would be an important element. If such a programme could be implemented, the identification of persons living outside as well as those from the camps and the Territory could be completed in approximately four months.

34. The Security Council was further informed that as at 31 August the military component of MINURSO, headed by the Force Commander, Brigadier-General André Van Baelen (Belgium), totalled 285 personnel, comprising 237 military observers and 48 military support personnel. Pending the fulfilment of the conditions necessary for the commencement of the transitional period, the military mandate of MINURSO remained restricted to monitoring and verifying the cease-fire, which came into effect on 6 September 1991. During the past year, only a few minor cease-fire violations had been observed, most of which pertained to unauthorized movements by both parties.

35. As at 31 August, the civilian police component of MINURSO totalled 92 officers. Colonel Wolf-Dieter Krampe (Germany) assumed his functions as Civilian Police Commissioner on 13 March, to replace Colonel Jürgen Friedrich Reimann (Germany) who had completed his tour of duty with MINURSO. Colonel Krampe served until 20 August and, pending the designation of his replacement, Lieutenant-Colonel Jan Walmann (Norway) was designated Acting Civilian Police Commissioner. Pending the commencement of the transitional period, the activities of the civilian police component remained linked to those of the Identification Commission. It maintained a 24-hour security presence at the identification centres and provided technical assistance to the Commission, as appropriate.

36. With respect to other aspects relevant to the fulfilment of the Settlement Plan, the Secretary-General informed the Security Council that the benchmarks which in his last report 9/ he had proposed to meet had not been achieved for the most part. Both parties had maintained their respective positions

concerning the confinement of the Frente POLISARIO troops. Both had also objected to the terms of the proposed code of conduct, despite the efforts made by the Secretariat to reconcile their differences.

37. While reiterating the Security Council's warning that the process could not continue indefinitely, the Secretary-General stressed that premature withdrawal of MINURSO would have very grave and far-reaching implications for the parties and the whole subregion and should be avoided, if at all possible. He proposed an extension of the mandate of MINURSO until 31 January 1996, adding that if, by then, the conditions necessary for the start of the transitional period were not in place, he would present the Council with alternative options for consideration, including the possibility of withdrawal of MINURSO.

38. On 22 September, the Security Council adopted resolution 1017 (1995) in which the Council extended the Mission's mandate until 31 January 1996 and noted the Secretary-General's above-stated intention. It also requested the Secretary-General to produce specific and detailed proposals, in close consultation with the parties, to resolve the problems hindering the completion of the identification process, and to report on the outcome of his efforts in that regard by 15 November 1995. He was also requested to report by 15 January on progress achieved towards the implementation of the Settlement Plan, and to state in that report whether or not the transitional period could begin by 31 May 1996.

Notes

1/ S/1994/1257.

2/ S/21360 and S/22464 and Corr.1.

3/ S/1994/819.

4/ S/PRST/1994/67.

5/ S/1994/1420.

6/ S/1994/1420/Add.1.

7/ S/1995/240 and Add.1.

8/ S/PRST/1995/17.

9/ S/1995/404.

10/ S/1995/498.

11/ See S/1995/524, annex.

12/ S/1995/514, annex.

13/ A/AC.109/2029 and Add.1.

14/ S/1995/578, annex.

15/ S/1995/779.

---